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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,989

09/22/2003

Denis Jolivet

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
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EXAMINER

PHAN, JAMES

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

05/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/667,989	Applicant(s) JOLIVET, DENIS	
	Examiner James Phan	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11,21-23,26,27 and 50-67 is/are pending in the application.
- 4a) Of the above claim(s) 21,22,26,27 and 50-56 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-11,23 and 57-67 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: the continuation data filed 9/22/03 should be updated to include the patent number of the parent application 09/935,517.

Appropriate correction is required.

Election/Restrictions

Amended claims 21-22 and 26-27 and newly submitted claims 50-56 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The amended claims and the newly submitted claims do not read on the elected species depicted in Fig. 5. Fig. 5, as disclosed in the specification, is an embodiment which includes the use of two fixed reflectors which may be in contact with each other, and angled with respect to one another. Fig. 5 is not disclosed to have at least (1) "a first secondary reflector... rotationally offset from being parallel with the reference plane by a first angle" and "a second secondary reflector ... rotationally offset from being parallel with the reference plane by a second angle that is different from the first angle" as recited in the amended claim 21, lines 7-8 and 9-10, respectively; (2) "wherein at least one of the secondary reflectors is adapted to oscillate" as recited in the amended claims 27 and the newly submitted claim 51; and (3) "wherein the first and the second secondary reflectors are non-abutting" as recited in the amended claim 52. As recognized by the applicant the feature recited in the amended claims 27 and the newly submitted claim 51 is disclosed "In a further embodiment"; however, the "further

embodiment” is clearly not the same as the elected embodiment as disclosed in the specification and depicted in Fig. 5.

Applicant has argued that the amended claim 21 is generic to the elected species. The examiner disagrees because the amended claim 21 recites the features “a first secondary reflector... rotationally offset from being parallel with the reference plane by a first angle” and “a second secondary reflector ... rotationally offset from being parallel with the reference plane by a second angle that is different from the first angle” which are not recited in any claims of the elected species.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-22, 26-27 and 50-56 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

Claims 1, 4-11, 23 and 57-67 are allowed.

Conclusion

This application is in condition for allowance except for the following formal matters:

The objection to the specification and the presence of claims 21-22, 26-27 and 50-56 directed to an invention non-elected with traverse (see discussion above).

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm’r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (571) 272-2317. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on (571) 272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Phan/
James Phan
Primary Examiner
Art Unit 2872